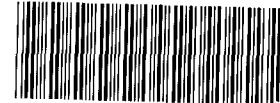




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460



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FEB 9 1993

OFFICE OF ENFORCEMENT

Mr. Paul D. Grimm  
U. S. Department of Energy  
Acting Assistant Secretary Environment  
1000 Independence Avenue SW  
Washington, D.C.

Re: Rocky Flats Plant  
Anticipated IAG Default

Dear Mr. Grimm:

The Rocky Flats Plant Interagency Agreement (IAG) provides that the draft OU-2 RCRA Facility Investigation (RFI)/Remedial Investigation (RI) report will be submitted to the Environmental Protection Agency (EPA) and the Colorado Department of Health (CDH) on March 12, 1993. But, by letter dated October 14, 1992, DOE's Rocky Flats Office informed EPA and CDH that the field work necessary for this report had not been undertaken and that this report would not be submitted when due. The letter, copy attached, says that the work was not undertaken because DOE determined that insufficient funds were available.

Beginning in October 1991 EPA raised the issue of whether DOE had adequately funded work required under the RFI IAG. Until the October 14, 1992, letter, EPA had been repeatedly assured by DOE that lack of funding would not impair progress. EPA Region 8 and CDH staff have met with RFI staff to explore means of minimizing the delay, yet the current projection is that at least 12 months are lost.

Absent a showing that DOE requested adequate funds from Congress but did not receive the funds required, the IAG provides for stipulated penalties for failure to timely submit a primary document such as this. To date, no request for an extension has been received, nor am I aware of any basis upon which to grant an extension if requested. Accordingly, stipulated penalties would accrue beginning March 13, 1993.

The results of work undertaken to date suggest that the Bedrock Workplan should be modified. EPA and CDH are willing to work with DOE to modify the Workplan accordingly. Unless the approved modifications require DOE to undertake a more extensive, or more time consuming, investigation, modification will not reduce or defer DOE's obligation to pay stipulated penalties for missing the March 12, 1993 IAG milestone.

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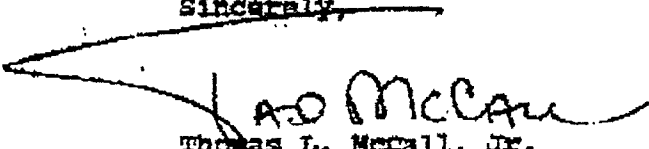
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Moreover, DOE's obligation to submit the Draft RFI/RI Report for OU-2 requires the results of all investigations specified in an approved Workplan. A partial submission would be a failure to meet the IAG milestone.

Even more troubling than the prospect of missing the OU-2 milestone is that these events seem symptomatic of underlying problems in Rocky Flats remedial efforts that can erode public confidence and impair the progress of environmental restoration. I suggest we convene a meeting of all key participants to address the fundamental problems which must be resolved if environmental restoration is to progress in a timely fashion and public confidence is to be restored.

Sincerely,

  
Thomas L. McCall, Jr.  
Acting Deputy Assistant Administrator  
for Federal Facilities Enforcement

Enclosures

cc: P. Whitfield  
R. Baruba